

Jessica Fernandez

From: Keith Lipscomb
Sent: Tuesday, June 24, 2014 1:32 PM
To: 'JohnSeiver@dwt.com'
Cc: Emilie Kennedy
Subject: Re: Malibu Media v. Does -- Additional Discovery Needed in Active Cases

John,

You are great lawyer. You helped me during the Bellwether depo and I'll never forget that. Although our clients have somewhat different interests, I hold you and Comcast in the highest regard and do not want to do anything that will taint either relationship. As for money and timing, we will always pay, and I will always coordinate a mutually agreeable time. The motion you attached is just the condition precedent to being able to subpoena Comcast. I thought I'd talk to you after it was granted. If you prefer that I give you advance notice of each such motion we will implement a system that cc-s you on every such motion.

I am Malibu's general counsel. Nicoletti is lead counsel in that case. I just assist with it. Ultimately, he is responsible for that case. Significantly, I am not admitted in his states.

We didn't pre-inform you of the motion because I did not think it was necessary yet. Several of the cases are getting to this point. I need to get authority to subpoena Comcast in those cases. But, only a subset will actually require a depo because many will settle.

As for the ratio, all I need for my equation is that Comcast testify that it has at least 1 IP for every 10 accounts. One thing I want you to know John, I will always strive to be reasonable with you and Comcast. Please forgive me if my failure to communicate was perceived as a slight or disrespectful. No such intention existed.

Best regards,
Keith

From: Seiver, John [mailto:JohnSeiver@dwt.com]
Sent: Tuesday, June 24, 2014 12:42 PM
To: Keith Lipscomb
Cc: Emilie Kennedy
Subject: RE: Malibu Media v. Does -- Additional Discovery Needed in Active Cases

Keith, I just of wind of this motion and it is not one of the three cases you listed below. I thought Nicoletti takes his orders from you.

I expected you would let me know in advance of filing a motion like this and that we would discuss dates, scope, and fees. You also added in information on the number of Internet subs in Michigan and the ratio of IP addresses to (not state-specific) subs. That may be a different witness than before and I am not sure we can give that to you anyway.

And we have not come to agreement on reimbursement. I expected that first as well.

Please advise.